

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHIMAE L OBIE
Claimant

DES MOINES IND COMMUNITY SCH DIST
Employer

APPEAL 20R-UI-11461-S1-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (1)

Iowa Code § 96.4(5) – Reasonable Assurance
Iowa Admin. Code r. 871-24.51(6) – Reasonable Assurance
Iowa Admin. Code r. 871-24.52(10) – Substitute Teachers

STATEMENT OF THE CASE:

Shimae Obie (claimant) appealed a representative's June 24, 2020, decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits for weeks between successive academic terms with Des Moines Independent Community School District (employer). This administrative law judge issued a decision on August 18, 2020, affirming the representative's decision. The Employment Appeal Board issued a decision of remand on September 11, 2020. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 10, 2020. The claimant participated personally. The employer participated by Rhonda Wagoner, Benefits Specialist. The administrative law judge took official notice of the administrative file.

ISSUE:

The issue is whether the claimant is between successive terms with an educational institution and had reasonable assurance of employment.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is an educational institution. The claimant was hired on August 16, 2017, as a cheerleading coach. The claimant knew that the position ran from August through February when she was hired. The claimant ended her season on February 28, 2020, and planned to return in August 2020. She started working again on August 24, 2020.

The claimant also worked twenty hours per week at Burlington Coat Factory and earned \$10.00 per hour. The store closed on or about April 1, 2020.

The claimant filed for unemployment insurance benefits with an effective date of April 5, 2020. Her weekly benefit amount was determined to be \$156.00. The claimant received benefits of \$156.00 per week from April 5, 2020, to the week ending June 20, 2020. This is a total of

\$1,716.00 in state unemployment insurance benefits after the separation from employment. She also received \$6,600.00 in Federal Pandemic Unemployment Compensation for the eleven-week period ending June 20, 2020. Without the employer's wages in her base period of employment, the claimant is monetarily ineligible for unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant is not eligible to receive unemployment insurance benefits.

Iowa Code section 96.4(5)b provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in section 96.19, subsection 18, are payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the same basis of other service subject to this chapter, except that:

b. Benefits based on service in any other capacity for an educational institution including service in or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization, shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or terms, if the individual performs the services in the first of such academic years or terms and has reasonable assurance that the individual will perform services for the second of such academic years or terms. If benefits are denied to an individual for any week as a result of this paragraph and the individual is not offered an opportunity to perform the services for an educational institution for the second of such academic years or terms, the individual is entitled to retroactive payments of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph.

Iowa Admin. Code r. 871-24.51(6) provides:

School definitions.

(6) Reasonable assurance, as applicable to an employee of an educational institution, means a written, verbal, or implied agreement that the employee will perform services in the same or similar capacity, which is not substantially less in economic terms and conditions, during the ensuing academic year or term. It need not be a formal written contract. To constitute a reasonable assurance of reemployment for the ensuing academic year or term, an individual must be notified of such reemployment.

Iowa Admin. Code r. 871-24.52(9) provides in part:

(9) Vacation period and holiday recess. With respect to any services performed in any capacity while employed by an educational institution, unemployment insurance payments shall not be paid to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs service in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform service in the period

immediately following such vacation period or holiday recess. However, the provision of subrule 24.52(6) could also apply in this situation.

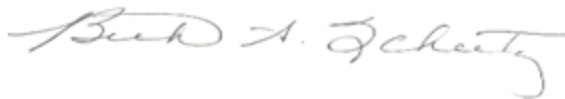
The claimant is employed by an educational institution. The claimant worked for the 2019-2020, season/academic year and was expected to work for the 2020-2021, season/academic year. The two seasons are successive terms. The claimant was between successive terms with an educational institution from March 1, 2020, through August 22, 2020. Benefits are denied as of April 5, 2020.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

DECISION:

The representative's June 24, 2020 decision (reference 02) is affirmed. The claimant is not eligible to receive unemployment insurance benefits for the weeks between successive seasons with the employer. Benefits are denied effective April 5, 2020.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.



Beth A. Scheetz
Administrative Law Judge

November 17, 2020
Decision Dated and Mailed

bas/mh